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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/946,341	10/07/97	BROWN S	RYA-129

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QM41/0414

EXAMINER	
ASTORINO, M	
ART UNIT	PAPER NUMBER
3736	6

DATE MAILED: 04/14/99

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Office Action Summary

Application No.

08/946,341

Applicant(s)

Brown

Examiner

Michael Astorino

Group Art Unit

3736



☒ Responsive to communication(s) filed on Oct 7, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-61 is/are pending in the application.

Of the above, claim(s) 51-61 is/are withdrawn from consideration.

☒ Claim(s) 1-50 is/are allowed.

☐ Claim(s) is/are rejected.

☐ Claim(s) is/are objected to.

☐ Claims are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number)

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received:

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s).

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3736

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-50, drawn to a system for remotely monitoring an individual, classified in class 600, subclass 300.
 - II. Claim 51-61, drawn to a system for communicating information to an individual, classified in class 364, subclass 188.
2. Newly submitted claims 51-61 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions. Specifically Invention I discloses remotely monitoring an individual which is a diagnostic application. However a system of communicating information is a very broad claim and goes outside a diagnostic application. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the

Art Unit: 3736

merits. Accordingly, claims 51-61 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3. This application is in condition for allowance except for the presence of claims 51-61 to an invention non-elected with traverse in Paper No. 5. Applicant is given ONE MONTH or THIRTY DAYS from the mailing date of this letter, which-ever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

The prosecution of this case is closed except for consideration of the above matter.

Allowable Subject Matter

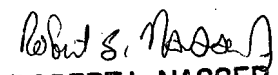
4. Claims 1-50 are allowed.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Astorino whose telephone number is (703) 306-9067.


Michael Astorino

April 12, 1999


ROBERT L. NASSER
PRIMARY EXAMINER